

M I N U T E S
SCOTTSDALE CITY COUNCIL
CITY COUNCIL MEETING
Tuesday, January 7, 2003

**The Kiva
City Hall
Scottsdale, Arizona**

**MINUTES
SCOTTSDALE CITY COUNCIL
CITY COUNCIL MEETING
Tuesday, January 7, 2003**

CALL TO ORDER (IN CITY HALL KIVA FORUM)

Mayor Manross called to order the Regular Meeting of the Scottsdale City Council on Tuesday, January 7, 2003 in the Kiva, City Hall, at 5:10 P.M.

ROLL CALL

Present: Mayor Mary Manross
Vice Mayor David Ortega
Council Members Ned O'Hearn, Tom Silverman, Robert Littlefield, Wayne Ecton, and Cynthia Lukas

Also Present: City Manager Jan Dolan
City Attorney David Pennartz
City Clerk Sonia Robertson

Moment of Silence

Mayor Manross respectfully requested a moment of silence in honor of Joe Foss who passed away on January 1, 2003. She noted that he was a resident of Scottsdale who courageously fought for his country and dedicated his life to serving others.

Pledge of Allegiance

Councilwoman Lukas led the audience in the Pledge of Allegiance.

Invocation

None was offered.

Boards, Commissions, and Committees

Vice Mayor Ortega briefly outlined the purpose of each board and special qualifications, if any, for the open positions before nominations for each individual board was open.

Building Advisory Board of Appeals (1)

Vice Mayor Ortega opened the floor for nominations.

Councilwoman Lukas nominated Joel Rencsok

Vice Mayor Ortega closed the floor for nominations.

Joel Rencsok was reappointed to the Building Advisory Board of Appeals by a unanimous vote.

Library Board (2)

Vice Mayor Ortega opened the floor for nominations.

Mayor Manross nominated David Berry
Councilwoman Lukas nominated Nancy Walker

Vice Mayor Ortega closed the floor for nominations.

David Berry and **Nancy Walker** were appointed to the Library Board by a unanimous vote.

Planning Commission (1)

Vice Mayor Ortega opened the floor for nominations.

Mayor Manross nominated David Gulino
Wayne Ecton nominated David Barnett

Vice Mayor Ortega closed the floor for nominations.

David Gulino was reappointed to the Planning Commission by a majority vote.

District Advisory Board (11-14)

After a brief discussion, the majority of Council agreed that 14 members would be appropriate and a vote should be taken to determine the members.

Vice Mayor Ortega opened the floor for nominations.

Councilman O'Hearn nominated Jeffrey Abts
Vice Mayor Ortega nominated Dewey Schade
Councilwoman Lukas nominated S. Gail Skvarenina
Mayor Manross nominated Michael Pickett
Councilman Silverman nominated James Derouin
Councilman Ecton nominated James Heitel
Councilman Littlefield nominated Roberta Pilcher
Councilman O'Hearn nominated Paul Ahler
Vice Mayor Ortega nominated Timothy Bray
Councilwoman Lukas nominated Barbara Klein
Mayor Manross nominated Wendy Riddell
Councilman Silverman nominated Lida Stewart
Councilman Ecton nominated E. Thomas Morrow
Councilman Littlefield nominated James Wellington
Councilman O'Hearn nominated Barbara Clark
Vice Mayor Ortega nominated William McCluskey
Councilwoman Lukas nominated Suzanne Klapp
Mayor Manross nominated Stuart Wesbury

Councilman Silverman nominated Wendy Lyons
Councilman Ecton nominated Donald Scott
Councilman Littlefield nominated James Cunningham
Councilman O'Hearn nominated James Vail
Vice Mayor Ortega nominated Loren Langslet
Councilwoman Lukas nominated James Morrison
Mayor Manross nominated Henry Reuss
Councilman Silverman nominated George Knowlton
Councilman Ecton nominated Louis Jekel
Councilman Littlefield nominated Carol Padwe
Councilman O'Hearn nominated Oliver Smith
Vice Mayor Ortega nominated Lynn Timmons-Edwards
Councilwoman Lukas nominated Susan BitterSmith

Vice Mayor Ortega closed the floor for nominations.

Jeffrey Abts, Susan BitterSmith, James Derouin, Suzanne Klapp, Barbara Klein, George Knowlton, Wendy Lyons, William McCluskey, Michael Pickett, Roberta Pilcher, Wendy Riddell, Donald Scott, Lida Stewart, and James Wellington were appointed to the Council District Advisory Task Force by majority votes.

Public Comment

Leon Spiro, 7814 E. Oberlin Way, noted that he showed Council a copy of his Federal Land Patent for his GLO parcel. He stated that the Mayor and City Attorney have finally admitted that the City is only abandoning the public access rights, the City's interest, when abandoning the 33' roadway and public utility easement which the Federal government placed upon the GLO parcels under the terms of the Small Tract Act of 1938. At the August 27, 2002 Council meeting, City Attorney Pennartz explained that no private property rights, if they exist, are abandoned by the City. Mr. Spiro urged Council to seek outside expert legal advice on this issue if the City's attorney is unsure if private property rights exist. He urged Council to look into the private property issue related to the GLO easements. If Council determines that private property rights are not involved, he urged them to investigate the type of easement involved.

Donn Loper, 10761 E. Laurel Lane, questioned when Council is going to stop listening to the emotionally charged rhetoric of opponents and start listening to the citizens of Scottsdale who voted for the McDowell Mountain Ranch Aquatic Center and Park.

Bill Bergdoll, 10406 E. Tierra Buena Lane, explained that he was distressed to find out that the item regarding the McDowell Mountain Ranch Aquatic Center and Park was removed from the Monday evening agenda. He pointed out his belief that the people who are raising the concerns regarding children and safety are people who don't have any children. He noted that the reason his family moved into the area was specifically due to the aquatic center and park that was planned for the area. He felt the area has been studied over and over again with all the initial concerns being met. Currently, the people raising the issues regarding the park are the people who don't want the park there regardless. He pointed out his belief that the demand is there for a park so ultimately; a park will be constructed at the site.

Jude Nau, 7320 E. Camelback Road, spoke on behalf of Sundial Resorts, Inc., urging Council to remove the redevelopment designation on the property or enter into a redevelopment agreement with Sundial Resorts. He pointed out that Council unanimously supported Sundial's plans for redeveloping the property during the September 9, 2002 Council Meeting, however, the property remains under threat of

condemnation due to its inclusion in the redevelopment area. He pointed out that his company has made a considerable investment of money and human resources into their plans for their hotel. He explained that his company will re-evaluate its plans for the property if Council doesn't take action to enter into a redevelopment agreement with Sundial or remove the redevelopment designation from the property.

Nona Oliver, 6908 E. Portland, requested information regarding the delay of the McDowell Mountain Ranch Aquatic Center and Park. She wanted to know who, what, and where the delay originated.

Minutes

SPECIAL MEETINGS

REGULAR MEETINGS

December 9, 2002
December 10, 2002

EXECUTIVE SESSIONS

COUNCILWOMAN LUKAS MOVED TO APPROVE THE REGULAR MINUTES FROM DECEMBER 9, 2002 (AS AMENDED) AND DECEMBER 10, 2002. VICE MAYOR ORTEGA SECONDED THE MOTION WHICH CARRIED 7/0.

CONSENT AGENDA CONTINUED FROM MONDAY

1. **REMOVED FROM THE CONSENT AGENDA FOR SEPARTE DISCUSSION. SEE PAGE 6**
2. **REMOVED FROM THE CONSENT AGENDA FOR SEPARTE DISCUSSION. SEE PAGE 7**
3. **REMOVED FROM THE CONSENT AGENDA FOR SEPARTE DISCUSSION. SEE PAGE 8**
4. **REMOVED FROM THE CONSENT AGENDA FOR SEPARTE DISCUSSION. SEE PAGE 8**
5. **Engineering Services Contract for design of Improvements to Camelback Road from 64th to 68th Street. Request: AUTHORIZE Engineering Services Contract No. 2003-001-COS with Tri-Core Engineering in the amount of \$ 182,179.00 for the design of Camelback Road Improvements from 64th to 68th Streets.**
Staff Contact(s): Dan Walsh, Project Manager, (480) 312-5248, dwalsh@ci.scottsdale.az.us.
6. **Construction Contract Award for Paiute Neighborhood Center Buildings 7 and 9 Remodel. Request: Authorize Construction Contract Award No. 03PB047 for the renovation of Paiute Neighborhood Center Buildings 7 and 9 to Regency Development, Inc., the lowest responsive, responsible bidder at their lump sum bid of \$ 508,958.00.**
Related Policies, References: Development Review Board, staff approval (No.57-SD-1983), November 29, 2001; City Council award of architectural design contract (#2002-006-COS), January 7, 2002.
Staff Contact(s): Doreen Song P.E., Project Manager, (480) 312-2367, dsong@scottsdaleaz.gov.

7. REMOVED FROM THE CONSENT AGENDA FOR SEPARTE DISCUSSION. SEE PAGE 8

*****8. WITHDRAWN – SEE PAGE 9**

9. DUI arrests and related blood draw services

Request: Adopt Resolution No. 6205 approving Contract No. 2002-148-COS; and Approve Contract No. 2002-148-COS (Sole Source # 03SS031) between the City and Scottsdale Health Care For Blood Draw Services. Based on current and projected levels of service, contract fees are estimated to be \$49,000 per year.

Staff Contact(s): Lt. Michael Rosenberger, District 1 PD, mrosenberger@scottsdaleaz.gov
(480) 312-7016; Sgt. Dave Larson, District 1 PD, dlarson@scottsdaleaz.gov
(480) 312-2418; Warren, Monroe, Purchasing Director, mwarren@scottsdaleaz.gov,
(480) 312-5705

10. Amend the City's Procurement Code to allow the Purchasing Director to use the bid solicitations of non-Arizona government entities.

Request: Adopt Ordinance No. 3481, amending Code Section 2-191, Procurements from Solicitation by Other Governmental Entities, to allow the Purchasing Division to use out-of-state governmental entity contracts.

Staff Contact(s): Monroe C. Warren, Purchasing Director, mwarren@scottsdaleaz.gov,
(480) 312-5705.

11. 2003/04 Mayor and City Council Mission and Goals

Request: Consider adopting the 2003/04 Mayor and City Council Mission and Goals, as updated at the October 26, 2002 and November 12, 2002 City Council Workshop. The Mission and Goals were originally created by Council in Fall 2000. These statements are meant to be fluid and flexible, i.e. the Council reviews and modifies them each year to ensure they reflect changing goals and priorities. Upon approval, the Mission and Goals will be incorporated within the upcoming budget planning process, printed in City publications, and will become a tool for the City Manager to ensure further alignment of City-related programming with the Council's goals and priorities for Scottsdale.

Related Policies, References: 2002/03 Mission and Goals and revised 2003/04 Mission and Goals.

Staff contact: Natalie Lewis, 480-312-7806, nlewis@scottsdaleAZ.gov

COUNCILMAN SILVERMAN MOVED TO APPROVE CONSENT ITEMS 5, 6, AND 9-11 FROM THE MONDAY EVENING AGENDA. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

ITEMS REMOVED FROM MONDAY'S CONSENT AGENDA

- 1. Contract for Legal Services in connection with City of Scottsdale v. Skyridge Estates, L.L.C., et al., Superior Court Case No. CV99-13646.** **Request:** Adopt Resolution No. 6210 authorizing the Mayor to execute Contract No. 2000-083A-COS, an outside counsel contract renewal in a maximum amount of Thirty Thousand Dollars (\$30,000.00) with GRAHAM & ASSOCIATES, LTD. for legal services in connection with City of Scottsdale v. Skyridge Estates, L.L.C., et al., Superior Case No. CV99-13646 brought to acquire real property necessary for the McDowell Sonoran Preserve. The

contract will enable the City to continue receiving expert legal services with respect to this matter.

Related Policies, References: Resolution No. 6210.

Staff Contact(s): Patrick McGreal, Assistant City Attorney,
pmcgreal@ci.scottsdale.az.us,
(480) 312-2405

Mayor Manross opened public testimony.

Leon Spiro, 7814 E. Oberlin Way, questioned why the City doesn't put this type of contract out to bid. He questioned if the City has any associations within the City that may be able to do this type of work. He inquired if the City is admitting that staff doesn't have the expertise to handle these matters.

Mayor Manross closed public testimony.

City Attorney Pennartz explained that under the City Code, professional services contracts are not obtained through a bidding process. They are obtained through a Request for Proposal (RFP) conducted on a periodic basis. Several years ago, Graham and Associates was selected from a RFP process that was conducted. He noted that other firms have also been used in the past. Recently, another RFP process was completed for legal services for condemnation work; however, ongoing cases aren't impacted. He pointed out that there are very few firms in private practice that handle the government side of condemnation work.

In terms of in-house resources, City staff handles about 2/3 of the litigation cases in house including more than 20 condemnation cases. He stressed that condemnation cases require an area of expertise since they are complex, time consuming, and sometimes deal with very large sums of money.

COUNCILWOMAN LUKAS MOVED TO APPROVE ITEMS 1, 2, AND 3. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

2. **Renew contract for legal services in connection with City of Scottsdale adv. Allied Construction, Inc. Request:** Adopt Resolution No. 6208 authorizing the City Attorney to renew Contract No. 2000-160A-COS and authorize renewal of Contract No. 2000-160A-COS in a maximum amount of Fifty Thousand Dollars (\$50,000) with Holden Brodman PLC for legal services in connection with the dispute among the City of Scottsdale, Allied Construction, Inc., and the City's engineer, Cella Barr Associates, relating to construction at McCormick Ranch Railroad Park.
Staff Contact(s): Steven Bennett, Deputy City Attorney 480-312-2405, sbennet@scottsdaleaz.gov; David A. Pennartz, City Attorney, 480-312-2405; dpennartz@scottsdaleaz.gov

Note: This motion was previously listed under Item 1; however, was repeated here for easy reference.

COUNCILWOMAN LUKAS MOVED TO APPROVE ITEMS 1, 2, AND 3. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

3. **Contract for Legal Services in connection with City of Scottsdale v. Glenalden Homes, L.L.C., et al., Superior Court Case No. CV 99-13348.** Request: Adopt Resolution No. 6211 authorizing the Mayor to execute Contract No. 2001-038A-COS, an outside counsel contract renewal in a maximum amount of Two Hundred Thousand Dollars (\$200,000.00) with the law firm of GRAHAM & ASSOCIATES, LTD. for legal services regarding representation of the City of Scottsdale in the litigation entitled City of Scottsdale v. Glenalden Homes, L.L.C., et al., Superior Court Case No. CV 99-13348, an eminent domain action brought to acquire real property for McDowell Sonoran Preserve.

Related Policies, References: Resolution No. 6211.

Staff Contact(s): Patrick McGreal, Assistant City Attorney,
pmcgreal@ci.scottsdale.az.us
(480) 312-2405.

Note: This motion was previously listed under Items 1 and 2; however, was repeated here for easy reference.

COUNCILWOMAN LUKAS MOVED TO APPROVE ITEMS 1, 2, AND 3. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

4. **Exchange of surplus property for property acquired for the Marshall Way Realignment and relocation benefits.** Request: Adopt Resolution No. 6209 authorizing Conveyance and Settlement Agreement No. 2002-150-COS between the City of Scottsdale and Thomas Gale and Anne Gale, dba Wiseman and Gale Gallery ("Gales").

Related Policies, References: On September 15, 1997 the City Council Adopted Resolution No. 4871 authorizing the acquisition of real property under the threat of eminent domain for the widening of Indian School Road and the realignment of Marshall Way.

Staff Contact(s): Patrick McGreal, Assistant City Attorney, 480-312-2659, pmcgreal@ci.scottsdale.az.us; Ron King, Asset Management Coordinator, 480-312-7042, rking@ci.scottsdale.az.us.

Councilman Ecton questioned why it has taken so long to resolve this issue.

City Attorney Pennartz explained that when a settlement is dealing with negotiations other than a monetary figure, it is a more complex process. He noted that this issue was dormant for a period of time to allow each side to reassess the situation, plans, and intentions.

COUNCILMAN ECTON MOVED TO ADOPT RESOLUTION NO. 6209 AUTHORIZING CONVEYANCE AND SETTLEMENT AGREEMENT NO. 2002-150-COS BETWEEN THE CITY OF SCOTTSDALE AND THOMAS GALE AND ANNE GALE, DBA WISEMAN AND GALE GALLERY ("GALES"). VICE MAYOR ORTEGA SECONDED THE MOTION WHICH CARRIED 7/0.

7. **Construction Contract Award for Scottsdale Road, Wall/Utility Phase from Hummingbird Lane to Berniel Drive.** Request: Authorize Construction Contract Award No. 03PB041 to Achen-Gardner Engineering, LLC, the lowest responsive bidder, at their total unit price bid of \$2,178,991.80.

This contract will relocate utilities to the west side of Scottsdale Road in preparation for the major widening of Scottsdale Road between Indian Bend Road and Gold Dust Blvd. A screen wall on the west side of the road will also be constructed between the Indian Bend wash and Doubletree Ranch Road.

Related Policies, References:

- Intergovernmental Agreement (IGA) No. 96-0001 between City of Scottsdale (city) and Town of Paradise Valley (town) (Approved 2/5/96 by Scottsdale City Council).
- Amendment to IGA No 96-001A which established responsibilities for under grounding of the existing 69 kV electrical power line between the city and the town. (Approved 12/9/02 by Scottsdale City Council and approved 12/19/02 by Paradise Valley Town Council)
- De-annexation Ordinance (Approved 11/7/02 by Paradise Valley Town Council and approved 12/9/02 by Scottsdale City Council).

Staff Contact(s): Alex McLaren, Construction and Design Director, (480) 312-7099, amclaren@ci.scottsdale.az.us

Councilman Ecton questioned if the City is allowed to go back and ask the top two or three bidders to come up with their best and final bid. Attorney Pennartz explained that on a bid situation like this, under State law, the bid must be awarded on the basis of the sealed bids that are opened or not awarded at all. He pointed out that Council is always free to reject all bids and put the work out for rebidding if Council believes the bids are not responsive.

Vice Mayor Ortega noted that this project is very important to the city since it will underground the power lines along the west side of Scottsdale Road, as well as involves a transaction with the town of Paradise Valley. He pointed out that this project has taken a long time to get to this point and must move forward.

COUNCILMAN ECTON MOVED TO AUTHORIZE THE CONSTRUCTION CONTRACT AWARD NO. 03PB041 TO ACHEN-GARDNER ENGINEERING, LLC, THE LOWEST RESPONSIVE BIDDER, AT THEIR TOTAL UNIT PRICE BID OF \$2,178,991.80. VICE MAYOR ORTEGA SECONDED THE MOTION WHICH CARRIED 7/0.

WITHDRAWN FROM MONDAY EVENING'S AGENDA

*****8. Authorize the Mayor to acquire real property at 7234 and 7240 East Second Street.**

12. McDowell Mountain Ranch Park & Aquatic Center Request: Approve a revised Municipal Use Master Site Plan for 40+/- acres.

Location: Southeast corner of Thompson Peak Parkway and McDowell Mountain Ranch Road

Reference: 20-UP-1994#2

Staff Contact(s): Kira Wauwie AICP, Project Coordination Manager, 480-312-7061, kwauwie@www.ScottsdaleAZ.gov

CONSENT AGENDA - TUESDAY

1. **REMOVED FROM THE CONSENT AGENDA FOR SEPARTE DISCUSSION. SEE PAGE 11**
2. **Next Restaurant Liquor License REQUEST:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) State liquor license.
Location: 7111 E 5th Ave
Reference: 96-LL-2002
Staff Contact(s): Jeff Fisher, Development Services Director, 480-312-7619, jefisher@www.ScottsdaleAZ.gov
3. **Caspian Restaurant Liquor License Request:**
Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 7 (beer and wine) State liquor license.
Location: 7000 E Shea Blvd
Reference: 99-LL-2002
Staff Contact(s): Jeff Fisher, Development Services Director, 480-312-7619, jefisher@www.ScottsdaleAZ.gov
4. **DC Ranch - Amended Development Agreement Request:**
 1. Approve an amendment to the DC Ranch Development Agreement No. 890074A.
 2. Adopt Resolution No. 6201 authorizing the Mayor to amend Development Agreement No. 890074A**Location:** DC Ranch
Reference: 54-ZN-1989#7
Staff Contact(s): Kurt Jones, Project Coordination Manager, 480-312-2524, kjones@www.ScottsdaleAZ.gov

City Attorney David Pennartz indicated that this item has been amended as per the attached document. The proposed changes include: 1) The Corrigan Family sold out their interest in the property to DC Ranch a couple of weeks ago, and so they needed to be deleted from the agreement; and 2) A sentence regarding the nature of the agreement was inadvertently removed from the agreement and needs to be added back into paragraph 2. The sentence reads as follows: *Corrigan Marley and Master Developer covenant. That neither they, nor their successors in interest shall build in excess of the revised Land use Budget, without obtaining all applicable City approvals, including an amendment to the Land Use Budget, attached to this agreement.*
5. **Hancock Homes/Madrid Development Proposal Request:**
To develop an eighty-five (85) lot single-family subdivision on a parcel of approximately 57 acres.
Location: North and south of Frank Lloyd Wright at Thunderbird Road.
Reference: 5-PP-2002
Staff Contact(s): Tim Curtis, Project Coordination Manager, 480-312-4210, tcurtis@www.ScottsdaleAZ.gov

6. **REMOVED FROM THE CONSENT AGENDA FOR SEPARTE DISCUSSION. SEE PAGE 12**
7. **REMOVED FROM THE CONSENT AGENDA FOR SEPARTE DISCUSSION. SEE PAGE 13**
8. **REMOVED FROM THE CONSENT AGENDA FOR SEPARTE DISCUSSION. SEE PAGE 14**
9. **Danny's Carwash – Raintree Conditional Use Permit Request to approve:**
 1. A conditional use permit for a new automated car wash on a 2.6 +/- acre parcel with Central Business District (C-2).
 2. A conditional use permit for a new service station on a 2.6 +/- acre parcel with Central Business District (C-2).

Location: 8680 E Raintree Dr
Reference: 22-UP-2002 & 23-UP-2002
Staff Contact(s): Bill Verschuren, Senior Planner, 480-312-7734, bverschuren@www.ScottsdaleAZ.gov.
10. **Elite Fitness Conditional Use Permit Request:** Approve a conditional use permit for a health studio on a .83 +/- acre parcel with Central Business District (C-2) zoning.

Location: 7120 E Indian School Rd
Reference: 24-UP-2002
Staff Contact(s): Suzanne Gunderman, Senior Planner, 480-312-7087, sgunderman@www.ScottsdaleAZ.gov.
11. **REMOVED FROM THE CONSENT AGENDA FOR SEPARTE DISCUSSION. SEE PAGE 15**
12. **REMOVED FROM THE CONSENT AGENDA FOR SEPARTE DISCUSSION. SEE PAGE 15**
13. **REMOVED FROM THE CONSENT AGENDA FOR SEPARTE DISCUSSION. SEE PAGE 16**

VICE MAYOR ORTEGA MOVED TO APPROVE TUESDAY CONSENT ITEMS 2, 3, 5, 9, 10, AND 4 (AS AMENDED). COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

ITEMS REMOVED FROM TUESDAY'S CONSENT AGENDA

1. **Devils Martini Bar Liquor License Request:** Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 6 (bar) liquor license.

Location: 4175 N Goldwater Blvd
Reference: 68-LL-2002
Staff Contact(s): Jeff Fisher, Development Services Director, 480-312-7619, jefisher@www.ScottsdaleAZ.gov

Councilman Ecton explained that it bothers him when applicants have several violations since business managers need to be accountable for their businesses. He noted that he was happy to see a copy of the parking agreements included in the packets for Council's review. He requested that, in the future, the agreements should include a type of statement that requires the person holding the agreement to notify the city of any changes in the agreement.

Councilman Littlefield noted that Councilman Ecton had previously requested that issues associated with liquor licenses be agendaized for discussion at a future Council meeting. He asked for an update on the status of the request. Deputy City Manager Ed Gawf explained that staff is working on preparing a report for Council's review which should be ready in April; however, a discussion was initiated at the October 28th study session on the downtown area. At that time, staff recommended dealing with the bar and nightclub issues through the business license.

Vice Mayor Ortega noted that this business has been operating for quite some time and has a quality location on Goldwater. He pointed out that the applicant would be going from a series 12 license to a series 6 license.

VICE MAYOR ORTEGA MOVED TO FORWARD A FAVORABLE RECOMMENDATION TO THE ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL FOR A SERIES 6 (BAR) LIQUOR LICENSE (68-LL-2002). COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 6/1 (W.E.).

6. Sevano Village Parcel 3 Development Proposal Request:

To develop a sixty four (64) lot single-family subdivision on a parcel of approximately 39 acres.

Location: East of the southeast corner of Dove Valley Road and Scottsdale Road (Northeast of the Scottsdale Summit Retail Center).

Reference: 6-PP-2002

Staff Contact(s): Jayna Shewak, Project Coordination Manager, 480-312-7059, jshewak@www.ScottsdaleAZ.gov

Jayna Shewak introduced this item as a request for Council to approve the final plat of Sevano Village Parcel 3 Development. It is located northeast of the corner of Ashler Hills Road and Scottsdale Road. She noted that the 64-lot patio home development plan is a reduction in the number of lots originally proposed to the Development Review Board.

Mayor Manross opened public testimony.

Leon Spiro, 7814 E. Oberlin Way, inquired if the property is comprised of an assemblage of GLO parcels and, if so, if the easements are appurtenant. He stated his belief that the area east of Scottsdale Road from Jomax north was downzoned in March of 1985 to R1-70 and higher. He questioned the location of the 15-acre park in relation to the development. He wondered if the playground is going to be permitted lights or if Council plans to deny lighting at the location. He suggested that if the item is approved, it should contain a provision stating that the playground will be lighted and all perspective property owners in the area should be made aware of the plans. He also questioned the purchase price for the 13 acres and whether the owner will still give the city the 2 acres as promised.

Mr. Spiro explained his belief that Council voted down a State Farm Plan for the area that would have gifted a 15-acre parcel to the City for a park, playground, and a 10-acre school site.

Mayor Manross closed public testimony.

Ms. Shewak addressed the question Mr. Spiro raised regarding GLO parcels. She explained that staff's review did not indicate that the area was affected by GLO easements. Regarding the down zoning, she pointed out that Council approved the zoning that currently exists on the property late last year. The park Mr. Spiro referred to is not a part of the item for Council's consideration this evening since it was part of the larger rezoning that took place in the vicinity.

COUNCILWOMAN LUKAS MOVED TO APPROVE THE SEVANO VILLAGE PARCEL 3 DEVELOPMENT PROPOSAL REQUEST TO DEVELOP A SIXTY-FOUR (64) LOT SINGLE-FAMILY SUBDIVISION ON A PARCEL OF APPROXIMATELY 39 ACRES (6-PP-2002). COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

7. McDowell Mountain Business Center Rezoning and Conditional Use Permit

1. **Request to approve:** A rezone from Single Family Residential, Planned Commercial District (R1-35 PCD) to Industrial Park, Planned Commercial District (I-1 PCD) on a 14+/- acre parcel.
2. A conditional use permit for automotive and boat assembly and reassembly, excluding general repairs and maintenance, on 1+/- acre.
3. Adoption of Ordinance No. 3483 affirming the above rezoning.

Location: Southeast corner of 90th Street & Bahia Drive and southwest corner of 91st Street & Bahia Drive

Reference: 18-ZN-2002 & 20-UP-2002

Staff Contact(s): Al Ward, Senior Planner, 480-312-7067, award@www.ScottsdaleAZ.gov

Randy Grant explained that this item is a request to rezone about 14 acres to Industrial Park, Planned Commercial District. There is also a use permit being requested for automotive and boat assembly/reassembly (not including general repairs) to take place on a portion of the site. The request also includes the request for Council to consider adoption of Ordinance No. 3483 affirming the rezoning.

Mr. Grant explained that this parcel is a part of the Bell Road ID area which is located south of Bell Road.

Mayor Manross opened public testimony.

Leon Spiro, 7814 E. Oberlin Way, explained that he understood that tonight's meeting is being held in accordance with the Arizona State Open Meeting Statute. He displayed a plat map indicating the original platting by the Federal government of the GLO parcels in the area at the time of sale by the General Land Office. He reminded everyone that the question before Council for GLO parcels is whether the city has the authority to abandon the roadway and public utility easement. He asked for confirmation that Attorney Pennartz agrees with the public statement made by Assistant City Attorney Donna Bronski when she stated that once the easements are abandoned, they are gone. He questioned if the City plans on issuing city permits to erect permanent structures on the abandoned GLO easements. He stated his belief that if the city issues such permits, it is the city's intention to violate Federal law. He questioned if the city would be liable for issuing building permits on an appurtenant easement that the city abandons.

Mayor Manross closed public testimony.

Attorney Pennartz explained that item 7 does not involve the abandonment of the city's interest in any GLO easement nor approval of a plat. The issue before Council is a rezoning case as stated by planning staff earlier tonight; therefore, those issues are not directly related to this case. He noted that when the city does entertain a request to abandon its interests in a GLO easement, the city is abandoning the public access rights that the city controls in the GLO easement. The city does not act as private legal counsel or as a title insurer for private parties, therefore, the city is not allowed to give private parties advice as to what their property rights are. He suggested that he would be happy to meet with Mr. Spiro to answer his questions after tonight's meeting.

Vice Mayor Ortega explained that this plan conforms with the General Plan and the overlay. He noted that the plan would create jobs and has paid its dues by funding roadway improvements along Bell Road.

VICE MAYOR ORTEGA MOVED TO APPROVE THE REZONING REQUEST TO REZONE FROM SINGLE FAMILY RESIDENTIAL, PLANNED COMMERCIAL DISTRICT (R1-35 PCD) TO INDUSTRIAL PARK, PLANNED COMMERCIAL DISTRICT (I-1 PCD) ON A 14+/- ACRE PARCEL LOCATED AT THE SOUTHEAST CORNER OF 90TH STREET & BAHIA DRIVE AND SOUTHWEST CORNER OF 91ST STREET & BAHIA DRIVE; AND A CONDITIONAL USE PERMIT FOR AUTOMOTIVE AND BOAT ASSEMBLY AND REASSEMBLY, EXCLUDING GENERAL REPAIRS AND MAINTENANCE, ON 1+/- ACRE; ADOPTION OF ORDINANCE NO. 3483 AFFIRMING THE ABOVE REZONING (18-ZN-2002 & 20-UP-2002). COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

- 8. Fox Sport Grill Conditional Use Permit Request:** Approve a conditional use permit for live entertainment in a 19,600+/- square foot building with Planned Regional Center (PRC) zoning.

Location: 16203 N Scottsdale Rd (Promenade Building One)

Reference: 21-UP-2002

Staff Contact(s): Bill Verschuren, Senior Planner, 480-312-7734, bverschuren@www.ScottsdaleAZ.gov

Councilman Ecton requested a clarification of the verbiage on page 3 of the presentation, item 1, bullet 1 which states, "There are no plans to have live entertainment in the dining area or in the outside patio areas." He noted that the language in other areas of the document is not consistent.

Councilman Ecton suggested that page 3, item 1, bullet point 1 should be changed to read, **"No live entertainment shall be allowed in the dining area or in the outside patio areas."**

COUNCILMAN ECTON MOVED TO APPROVE THE CONDITIONAL USE PERMIT FOR LIVE ENTERTAINMENT IN A 19,600+/- SQUARE FOOT BUILDING WITH PLANNED REGIONAL CENTER (PRC) ZONING LOCATED AT 16203 N SCOTTSDALE RD (PROMENADE BUILDING ONE) (21-UP-2002) WITH THE REVISION AS SUGGESTED ABOVE. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH WAS LATER WITHDRAWN.

Mayor Manross requested that the applicant clarify their plans to ensure the revision wouldn't be detrimental to the plans for the business. The Fox Sport Grill's representative verified that the business does not plan to have live entertainment on the patio in the future.

Vice Mayor Ortega noted that it is important to point out that the property is located along Scottsdale Road. He questioned why the city would want to over-regulate the business.

Councilman Ecton explained his intention was simply to ensure that the verbiage throughout the document is consistent.

Councilman Littlefield suggested that the entire sentence in question be eliminated rather than amended.

COUNCILMAN LITTLEFIELD MOVED TO APPROVE THE CONDITIONAL USE PERMIT FOR LIVE ENTERTAINMENT IN A 19,600+/- SQUARE FOOT BUILDING WITH PLANNED REGIONAL CENTER (PRC) ZONING LOCATED AT 16203 N SCOTTSDALE RD (PROMENADE BUILDING ONE) (21-UP-2002) WITH THE DELETION OF THE SENTENCE ON PAGE 3, SECTION A1, BULLET POINT 1 STATING, "THERE ARE NO PLANS TO HAVE LIVE ENTERTAINMENT IN THE DINING AREA OR IN THE OUTDOOR PAITO AREAS." COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

- 11. Scottsdale Airport Pavement Preservation Capital Project to be paid for (90%) by Arizona Department of Transportation (ADOT).** Request: Consider adoption of Resolution No. 6188 to authorize Intergovernmental Agreement (IGA) No. 2002-138-COS between ADOT and the City of Scottsdale for the purpose of conducting pavement preservation work at Scottsdale Airport proposed for fiscal year 2003/04. This work is projected to cost \$410,300.

Staff Contact(s): Scott T. Gray, Aviation Director, (480) 312-7735, sgray@ci.scottsdale.az.us

Councilman Ecton explained that he fully supports the project; however, has a problem with the financing. He explained that the public has been led to believe that the airport is paying for itself; however, at the present time, it is not. He stated that the city must take advantage of the money that is available to complete this project since it is quite expensive. He noted that the airport doesn't have 10% of the money for the project; therefore, the money will need to be allocated from the city's contingency fund with the fund being reimbursed next year. He suggested that the airport approach the major users of the airport and request that they advance the city the money for the project.

Scott Gray explained that there is a cash flow issue on this particular case. He pointed out that the funds would not be expended until next fiscal year; however, ADOT is requiring the city to commit to pay the balance of the 10%. He explained that the airport would have the money budgeted next fiscal year when the money will be expended. He noted that a landing fee increase is also proposed to help offset additional costs as well.

COUNCILMAN LITTLEFIELD MOVED TO ADOPT RESOLUTION NO. 6188 TO AUTHORIZE INTERGOVERNMENTAL AGREEMENT (IGA) NO. 2002-138-COS BETWEEN ADOT AND THE CITY OF SCOTTSDALE FOR THE PURPOSE OF CONDUCTING PAVEMENT PRESERVATION WORK AT SCOTTSDALE AIRPORT PROPOSED FOR FISCAL YEAR 2003/04. THIS WORK IS PROJECTED TO COST \$410,300. VICE MAYOR ORTEGA SECONDED THE MOTION WHICH CARRIED 7/0.

- 12. Increase fees for users of the US Customs Service at Scottsdale Airport Request:** Consider adoption of Resolution No. 6222 to authorize revision of the Airport/Airpark Rates and Fees Schedule to increase the US Customs User Fees.

Related Policies, References: Airport/Airpark Rates and Fees Schedule, Scottsdale Revised Code, Chapter 5; Contract 1999-020-COS.

Staff Contact(s): Scott T. Gray, Aviation Director, (480) 312-7735, sgray@ci.scottsdale.az.us

Councilman Ecton expressed concern that the airport is covering costs of the service through the fees. John Little, Transportation, explained that in retrospect, he wished he had included a chart that indicated exactly what the additional fees are that are not clear in the report. He stated that the revenues without any fee increase amount to \$85,000 with expenses totaling \$155,000. If Council were to approve the increase, the revenues for 02-03 would be \$119,000 against expenses of \$155,000 which would still leave a \$36,000 deficit due to the increase being considered half way through the fiscal year. In the next full fiscal year, with the fee increase, it is anticipated that revenues from the service would be \$148,000 against expenses of \$145,000.

Councilman Ecton requested details on all costs in future Council Action Reports rather than vague statements indicating additional operating costs would be incurred.

In response to questions from Councilman Littlefield, Mr. Little confirmed that this service brings ancillary benefits to the airport. Since this service is not available at every airport, there are users that fly into the Scottsdale Airport for the service and, perhaps, have their planes serviced or purchase fuel from the airport.

COUNCILMAN LITTLEFIELD MOVED TO INCREASE FEES FOR USERS OF THE US CUSTOMS SERVICE AT SCOTTSDALE AIRPORT REQUEST AND ADOPT RESOLUTION NO. 6222 TO AUTHORIZE REVISION OF THE AIRPORT/AIRPARK RATES AND FEES SCHEDULE TO INCREASE THE US CUSTOMS USER FEES. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

13. **Contract for Legal Services in connection with City of Scottsdale v. Ancala Global Company, L.C., et al., Superior Court Case No. CV 99-16269.** Request: Adopt Resolution No. 6223 authorizing the Mayor to execute Contract No. 2000-081A-COS, an outside counsel contract renewal in a maximum amount of Sixty Thousand Dollars (\$60,000.00) with the law firm of GRAHAM & ASSOCIATES, LTD. for legal services regarding representation of the City of Scottsdale in the litigation entitled City of Scottsdale v. Ancala Global Company, L.C., et al., Superior Court Case No. CV 99-16269, an eminent domain action brought to acquire real property for McDowell Sonoran Preserve.

Related Policies, References: Resolution No. 6223.

Staff Contact(s): Patrick McGreal, Assistant City Attorney, pmcgreal@ci.scottsdale.az.us, (480) 312-2405.

City Attorney Pennartz explained that this item is for consideration of an extension of the contract amount with Graham & Associates for outside legal services involving the case referenced above. The case involves a piece of property the city is acquiring for the preserve. The City's appraisal values the land at \$3.4 million with the property owner making a counter claim of \$25 million. He pointed out that the city doesn't employ the number of attorneys it would take to handle a case of this magnitude in addition to the other cases being handled in-house.

Mayor Manross opened public testimony.

Leon Spiro, 7814 E. Oberlin Way, questioned the number of acres involved in the case. He questioned how much the acquisition would end up costing the city. He wondered if the city doesn't have the expertise to handle the case in-house.

Mayor Manross closed public testimony while indicating that the parcel is a little over 24 acres.

VICE MAYOR ORTEGA MOVED TO ADOPT RESOLUTION NO. 6223 AUTHORIZING THE MAYOR TO EXECUTE CONTRACT NO. 2000-081A-COS, AN OUTSIDE COUNSEL CONTRACT RENEWAL IN A MAXIMUM AMOUNT OF SIXTY THOUSAND DOLLARS (\$60,000.00) WITH THE LAW FIRM OF GRAHAM & ASSOCIATES, LTD. FOR LEGAL SERVICES REGARDING REPRESENTATION OF THE CITY OF SCOTTSDALE IN THE LITIGATION ENTITLED CITY OF SCOTTSDALE V. ANCALA GLOBAL COMPANY, L.C., ET AL., SUPERIOR COURT CASE NO. CV 99-16269, AN EMINENT DOMAIN ACTION BROUGHT TO ACQUIRE REAL PROPERTY FOR MCDOWELL SONORAN PRESERVE. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

Regular Agenda

14. Consider Adopting Ordinance to Form Municipal Fire Department or Call Special Election on May 20, 2003 for a Public Vote on Forming a Municipal Fire Department. (At the request of Councilman Littlefield.) **Request:**

Option A.

ADOPT ORDINANCE WITHOUT CALLING A SPECIAL ELECTION.

Consider Adoption of Ordinance No. 3489, amending Chapter 36 of the Scottsdale Revised Code by adding sections 36-1, 36-2 and 36-3, relating to formation of a municipal fire department.

Option B.

CONSIDER CALLING SPECIAL ELECTION, FOR MAY 20, 2003.

B-1: FOR INITIATIVES IT-2002-04 AND IT-2002-05, IF THE MEASURES QUALIFY FOR THE BALLOT WITH ENOUGH VALID SIGNATURES;

Consider Adoption of Resolution No. 6230 calling a special election on Initiatives IT-2002-04 and IT-2002-05 for May 20, 2003, and approve a budget transfer from the General Fund contingency account (No. 100-99501-52890) to the City Clerk's Office elections expense account (No. 100-01035-52190) in the amount of \$150,000.00 for the estimated cost of the special election.

OR

B-2: FOR REFERRAL BY THE CITY COUNCIL OF BALLOT MEASURES TO THE VOTERS FOR A CHARTER AMENDMENT AND CITY CODE AMENDMENTS FOR FORMATION OF A MUNICIPAL FIRE DEPARTMENT.

Consider Adopting Ordinance No. 3490 submitting to the qualified electors of the City a charter amendment, adding Sec. 6 to Art. 4 of the Charter, requiring the creation of a municipal fire department, and

Adopt, subject to voter approval, Ordinance No. 3491, amending Chapter 36 of the Scottsdale Revised Code by adding Sections 36-1, 36-2 and 36-3, relating to formation of a municipal fire department, and
Adopt Resolution No. 6231 calling a special election on the ballot measures for May 20, 2003 and referring Ordinance No. 3490 (charter amendment) and Ordinance No. 3491 (city code amendments) to the voters for adoption or rejection, and
Approve a budget transfer from the General Fund contingency account (No. 100-99501-52890) to the City Clerk's Office elections expense account (No. 100-01035-52190) in the amount of \$150,000.00 for the estimated cost of the special election.

Staff Contact(s): Sonia Robertson, City Clerk, 312-2412, srobertson@scottsdaleaz.gov;
David A. Pennartz, City Attorney, 312-2405, dpennartz@scottsdaleaz.gov.

Councilman Littlefield explained that he requested this item be placed on the agenda in late December in anticipation of the certification of the petitions. He stated that although the item has three options listed, only option B-1 is currently appropriate. Option A would have created a Municipal Fire Department without putting the matter to public vote. He felt that Option A should be withdrawn due to lack of support and the citizens signed the petitions to place the issue on the ballot.

Mayor Manross opened public testimony.

Ross Dean, 29301 N. 114th Street, explained that he lives in north Scottsdale. He stated his opinion that there are burning issues within the city; however, the city can make better use of the \$150,000 that a special election would cost. He hoped that Council would use the money more wisely and place the issue on the ballot in the next general election.

Chuck Wunder, 1285 W. Camino Encanto, Green Valley, spoke on behalf of the Green Valley Fire District. He explained that Green Valley had a long-term relationship with Rural Metro. About a year and one-half ago, they severed the relationship. Since that time, they were able to increase their fire staffing, improve their rating, etc. He noted that it was the best decision Green Valley Fire District ever made.

Glenn Simmonds, 1285 W. Camino Encanto, Green Valley, spoke on behalf of the firefighters. He noted that he is Captain of the Green Valley Fire District. He explained that the biggest benefit for the firefighters was the retirement system. He noted that an increase in staffing was also accomplished without an increase in the tax rate. He explained that the firefighters have a strong working relationship with their five member Fire Board which benefits the community.

Paul Messinger, 11060 N. 94th Street, stressed his belief that the issue should be placed on the ballot for the election year of 2004. He stated that the transition would be a tremendous expense for the community and would be a long process for a city of this size. Since the city's contract with Rural Metro runs another three years, he didn't see why the issue should have to be hurried. He felt it is an important enough issue to let the community have time to hear the facts.

George Knowlton, 8701 E. Valley View Road, explained that he has lived in the city for over 20 years and has been happy with the service provided by Rural Metro. He expressed concern that the city is rushing to judgment, which usually ends in disaster. He stated his belief that there are too many issues that the public needs time to hear in order to make the right decision. He didn't feel 2004 was that long considering the issues involved.

Eric Luoma, 10822 N. Scottsdale Road, urged Council to consider simple economics. He noted that the firefighters that work in the city have always been there for the citizens and have done great work. He reminded Council that Fountain Hills and Paradise Valley requested that the city keep in mind that what the city does, impacts their communities as well. He felt that most importantly, Rural Metro has had a positive impact on the city. Considering that the special election would cost \$150,000, it doesn't make fiscal sense to spend the money for a special election. He pointed out that voter turnout is usually lower for a special election and urged Council to consider all the options while placing the issue on the ballot in 2004.

William Jenkins, 7719 E. Vernon Ave., expressed his belief that the city is going to need the money it would cost for a special election before the year is through. He urged Council to place the issue on the ballot in the next general election in 2004. He also pointed out his belief that the extra time would provide both sides plenty of time to present their case to the public.

John Rooney, 7719 E. San Fernando Drive, stated that although the city wants to be the best, it is willing to accept something less in fire protection. He believed that delaying the issue would be sending the signal that the city is willing to gamble with citizen's safety for \$150,000. He urged Council to place the issue on the ballot as soon as possible.

Bob Edwards, 21445 N. 77th Place, recited his experience to detail his expertise in the firefighting field. He explained he reviewed and revised the budget the citizen's committee had prepared for the proposed Municipal Fire Department. He then presented a brief slide presentation comparing the estimated budget for a Municipal Fire Department with the budget for Rural Metro. The bottom line according to *his* comparison indicated that with all needed additions for an operational fire department budget for the City of Scottsdale, the total added cost over the current Rural Metro budget is....\$53,384.

Vice Mayor Ortega questioned whether Mr. Edward's figures include adding the personnel to ensure that four men are stationed on each truck. He pointed out that a memo received by Council from Craig Clifford dated November 15, 2002 indicated that he agrees with the figures in Mr. Edwards presentation; however, brings to question the issue about the forth firemen. Mr. Edwards explained that his figures do not include cost estimates to place a fourth fireman on each truck. He stressed that the additional personnel don't need to be added immediately and disagreed that the cost would be an additional \$3 million. Mr. Edwards stated his belief that the cost for the additional personnel would be a little more than \$2 million.

Vice Mayor Ortega noted that the memo from Craig Clifford also mentions additional costs for transition of around \$4 million. Mr. Edwards explained that he is currently working with Matt Diamond to develop transition figures. He explained that there are creative cost reducing measures that can be taken.

Vice Mayor Ortega explained his belief that the city is looking at a cost of \$5 million in the first budget year over and above the cost of Rural Metro services. Mr. Edwards disagreed and noted that nothing dictates that the city must add a fourth firefighter to each truck right away.

Donald Maxwell, 8125 Via de Viva, explained that he knows what Rural Metro has meant to the city. He felt the fair thing to do is to place the issue on the ballot during a special election. He pointed out that a special election would focus attention on this issue whereas; the general election would involve many more issues.

Kurt Krumperman, 8401 E. Indian School Rd., spoke as the Group President for Rural Metro Fire and EMS Group. He stated his opinion that it is important to consider the timing of the election since it is important for the public to be fully educated on this issue. He felt that Council agrees that the public is not engaged on this issue yet. He stated his belief that the fire service is excellent in Scottsdale with excellent response times, which are still improving. The addition of two more stations will improve response times even further. Residential sprinklers within the city save lives and extinguish fires before they become more serious. While other valley cities are considering station closures and staffing cuts during these tough economic times, Scottsdale is doing something right when they are able to add stations and positions. He noted that Rural Metro can deliver and any level of service enhancements that the city decides it wants to put in place and can support. He explained that due to less than full participation in the 401K Plan and a desire by Rural Metro to provide comparable benefits with the private sector, Rural Metro is prepared to negotiate a 20 year pension-retirement plan into their next contract with the firefighters. The contract is scheduled to begin at the end of 2003 at the end of successful negotiations. Rural Metro has been asking since the summer of 2002 to get to the table to resolve the issues. He pointed out his belief that Mr. Edwards misspoke in his presentation since the cost comparison shown provides for less firefighters per shift. He explained that although costs of the transition are still uncertain, they could run up to \$10 million. He agreed that considering the economic times, the city should not spend \$150,000 on a special election. He stated his support of educating the public on the issues.

Rich Woerth, 4315 N. 68th Street, spoke as the Chairman of the Committee to Protect Scottsdale and Our Firefighters. He stressed his opinion that this is possibly the most important issue in the history of Scottsdale. He reminded Council of their commitment to place the issue on the ballot on the first available date.

Virginia Korte, 7343 Scottsdale Mall, spoke as a representative for the Scottsdale Area Chamber of Commerce. She noted that the chamber doesn't take sides as to the maintenance of a private fire system or a public one. She stated the organization's position as one of fiscal responsibility. She expressed her opinion that the issue should be on the ballot in 2004.

Jake Jacobsen, 5033 N. 19th Avenue, #108, spoke on behalf of the firefighters and their efforts to become the city's Municipal Fire Department. He explained that his parents live in the city and he has relatives who work for Rural Metro. He pointed out that the city's ordinance does not require the fourth firefighter to be assigned to each truck. He stated his opinion that the issue should be placed on the ballot at the earliest possible election as promised by Council six months ago.

Rick Kidder, 7343 Scottsdale Mall, spoke as a representative for the Scottsdale Area Chamber of Commerce. He explained that he is speaking in favor of fiscal responsibility in troubled times. In the business world, tough decisions need to be made in tough economic times. He pointed out that Scottsdale's circumstances have changed this past year. For the first time in many years, the city faces serious financial challenges. The chamber is not here to say that there have been no issues requiring resolution in Rural Metro's labor relations. Offers have been made to discuss those issues and reach resolutions; however, he stated his understanding that those offers have been rebuffed by the union to date. He stated that Rural Metro has provided more than 50 years of quality service to the people in Scottsdale and partnered with the city to develop regulations to protect the city's citizens. He pointed out that voter turnout would most likely be low for a special election. He urged Council to place the issue on the ballot on the March 2004 general election and avoid the costs associated with a special election.

Katie Cirelli, 8348 E. Columbus Avenue, asked Council to stop wasting additional funds on consultants when the residents have already spoken. She felt the issue should be placed on the May 2003 ballot since a firefighter's life is worth more than \$150,000.

Mayor Manross closed public testimony.

Councilman Littlefield explained that when times are tough economically, money is still spent; however, people must decide what is important. He stated his belief that this is the most important issue currently facing Scottsdale so he doesn't have any qualms about spending \$150,000 for a special election since the number one service the city provides is police and fire protection. He explained that there are also two moral issues involved including: 1) the Council promised to place the issue on the first available election date, and 2) the Council must be decisive.

Councilman Ecton explained that although he is concerned about spending \$150,000 for a special election, there are other issues involved that must be considered. He stated his belief money would be saved by city staff only spending four months compiling and releasing facts to the public instead of 14 months. In addition to staff costs, the firemen and their families will go through a period of uncertainty until the issue is resolved. He pointed out that a lot more money would be spent on both sides of the issue promoting their case, therefore, everyone would save a lot of money if the issue were placed on the ballot earlier. He explained that this is an ethical issue that should be dealt with as soon as possible.

Vice Mayor Ortega pointed out that the city's budget deficit is now projected at between \$16-\$17 million. He stated that the transition costs associated with initiating a Municipal Fire Department appear to be between \$4 to 7 million dollars which could bring the city's shortfall to approximately \$20 to 23 million. Although the special election will cost \$150,000, the total impact of the issue to the city's budget could be considered a \$22 million question. He cautioned that although the voters will ultimately decide the issue, the initiative might have a difficult time moving forward considering the tough economic times.

Councilman O'Hearn addressed the comment warning that the city is gambling with the public's safety if the issue isn't placed on the May 2003 ballot. He stated his belief that the comment is an alarmist statement and reflects negatively on what the people in the room and their associates can accomplish as the servants of the community.

Councilman O'Hearn explained that tonight's consideration is a timing issue with three components including: 1) the need to understand the ambiguity of the initiative language, 2) the issue of the six month timeframe to create a Municipal Fire Department if voters support the initiative, and 3) the need to question how many times the city is going to ask the electorates to go to the polls. He stressed that the voters need time to review, debate, and understand the issues. He expressed doubt that there would be time to do that with a May 2003 election.

Councilman Silverman explained that Council told the firefighters if they acquired the necessary signatures, Council would place the issue on the ballot at the next available election date. He felt the issue so important that it should be by itself on the ballot.

Councilwoman Lukas stated her belief that the issue is ill timed for many reasons. She stated support for the initiative process and expressed respect for the voter prerogative. She assured the public safety personnel that she supports them as individuals. She explained that the public safety personnel and Rural Metro have received excellent ratings for customer service. She stressed that she is standing by her statements in July although the economic times are currently different than when the statements were made. She agreed that the issues involved with the initiatives are not widely known; therefore, both sides

need ample time to make their cases. She hoped that both sides of the issue would move forward honestly and fairly.

Mayor Manross clarified that skilled, responsible, trained, firefighters and emergency medical personnel are responding to all the city's medical emergencies. Mayor Manross reminded everyone that there would be a March election for the school along with the special May election for the firefighter initiative if Council approves it.

COUNCILMAN LITTLEFIELD MOVED TO CALL SPECIAL ELECTION, FOR MAY 20, 2003 (OPTION B-1) FOR INITIATIVES IT-2002-04 AND IT-2002-05, AND ADOPT RESOLUTION NO. 6230 CALLING A SPECIAL ELECTION ON INITIATIVES IT-2002-04 AND IT-2002-05 FOR MAY 20, 2003, AND APPROVE A BUDGET TRANSFER FROM THE GENERAL FUND CONTINGENCY ACCOUNT (NO. 100-99501-52890) TO THE CITY CLERK'S OFFICE ELECTIONS EXPENSE ACCOUNT (NO. 100-01035-52190) IN THE AMOUNT OF \$150,000.00 FOR THE ESTIMATED COST OF THE SPECIAL ELECTION. COUNCILMAN ECTON SECONDED THE MOTION WHICH CARRIED 6/1 (N.O.).

Councilman Ecton inquired if it would be appropriate to make a motion to instruct the City Manager to develop a transition plan in anticipation of a positive public vote for a Municipal Fire Department. Ms. Dolan noted that Council could give staff direction by consensus although staff has been in the process of developing a transition plan and have identified critical issues.

Public Comment - NONE

City Manager's Report - NONE

Mayor and Council Items

Vice Mayor Ortega expressed concern regarding the delay of the McDowell Mountain Ranch Aquatic Center discussion. He felt the issue, as it was scheduled on last evening's agenda, should be agendaized as soon as possible so public discussion can be held before any other locations are considered or money is spent. Ms. Dolan noted that the item was withdrawn due to requests for additional traffic information from various Council members before the issue is discussed.

Councilman Ecton requested clarification of whether an individual Council member has the authority to pull any agendaized item or if another process is followed. Attorney Pennartz explained that the City Code provision refers to individual Council members sponsoring an item. If the item isn't required to have legal notice published, the City Manager brings the item forward to Council as the item is ready. If information is forthcoming to indicate that the item is not ready for discussion, there is some ability to delay the item. It is not strictly a code provision to allow a particular item to be continued unless a motion is made during a meeting.

Adjournment

With no further business to discuss, Mayor Manross adjourned the meeting at 9:10 P.M.

SUBMITTED BY:

Ann Eyerly, Council Recorder

REVIEWED BY:

Sonia Robertson, City Clerk

C E R T I F I C A T E

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular City Council Meeting of the City Council of Scottsdale, Arizona held on the 7th day of January 2003.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this _____ day of January 2003.

SONIA ROBERTSON
City Clerk